

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF OHIO

3 WESTERN DIVISION

4 * * *

5 MARK PANNEK, et al.,

6 Plaintiffs,

7 vs.

CASE NO. 1:19-CV-00852

8 U.S. BANK NATIONAL ASSOCIATION,

9 Defendant.

10 * * *

11 Deposition of DAVID LITTLE,

12 Witness herein, called by the Plaintiffs for

13 cross-examination pursuant to the Rules of Civil

14 Procedure, taken before me remotely, Stacey M.

15 Mortsof, RPR, CRR, a Notary Public in and for the

16 State of Ohio, in Irving, Texas, on Thursday,

17 September 16, 2021, at 10:01 a.m.

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I N D E X

WITNESS: DAVID LITTLE

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15 ALSO PRESENT:

16 Tom Strotman

Mark Pannek

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1 MR. SMITH: Stipulate to doing it
2 remotely and providing the oath via remote, I'm
3 fine with that. No objection to it.

4 MS. GOETZ-ANDERSON: No objection
5 from our end either.

6 * * *

7 DAVID LITTLE
8 of lawful age, Witness herein, having been first
9 duly cautioned and sworn, as hereinafter
10 certified, was examined and said as follows:

11 CROSS-EXAMINATION

12 BY MR. SMITH:

13 Q. Mr. Little, my name is Josh Smith.
14 I represent the plaintiffs in this matter, Mark
15 Pannek and Tom Strotman, in the matter of Mark
16 Pannek and Tom Strotman v. U.S. Bank National
17 Association. Do you understand that you are
18 attending today to provide testimony under oath
19 in this matter?

20 A. Yes.

21 Q. Okay. Have you ever had your
22 deposition taken before?

23 A. Yes.

24 Q. When was the last time you had
25 your deposition taken?

1 A. In the neighborhood of 15 years
2 ago.

3 Q. Was that in a -- can you tell me
4 where that was taken?

5 A. San Francisco.

6 Q. Okay. And why were you providing
7 testimony?

8 A. It was a shareholder lawsuit.

9 Q. Who were the parties in that case?

10 A. I don't recall. I was employed by
11 Household International at the time.

12 Q. What was your position there at
13 that time?

14 A. I was a senior vice president in
15 operations.

16 Q. Do you recall what that case was
17 about?

18 A. It had to do with financial
19 representation in some of the company's default
20 practices.

21 Q. Were you a party in that case?

22 A. No, I wasn't.

23 Q. Other than that occasion 15 years
24 ago, any other occasions where you've had your
25 deposition taken?

1 A. No, not that I'm aware of.

2 Q. I'm just going to go over some
3 ground rules with you regarding today. The
4 first thing is the court reporter, especially
5 when we're doing this remotely, can only
6 capture one of us speaking at a time. So if
7 you could just let me, as I ask you questions,
8 if you could just wait until I finish the
9 question before you provide the answer, and
10 I'll give you the same courtesy as far as your
11 answers. I'll wait until you finish, and I'll
12 ask you the next question. Does that make
13 sense?

14 A. Yes.

15 Q. Okay. Next, we need to make sure
16 that your answers are verbalized. So if it
17 calls for a yes or no, it would be a yes or a
18 no rather than a nodding of the head or an
19 huh-uh or uh-huh, does that make sense?

20 A. Yes.

21 Q. If you need a break today, just
22 ask for one. If I've asked you a question, I
23 just need you to answer that, and we can go
24 ahead and take a break. But if you need a
25 break, just speak up. Does that make sense?

1 A. Okay. Yes.

2 Q. Okay. First, where are you
3 located today as you're sitting for this
4 deposition?

5 A. Irving, Texas.

6 Q. Okay. It looks like you're in an
7 office. Are you at work today?

8 A. Yes.

9 Q. Okay. Is anyone else in the room
10 with you?

11 A. No.

12 Q. Okay. What have you done to
13 prepare for your deposition today?

14 A. I had a conversation with Jamie.

15 Q. And I'm not interested in what you
16 and Jamie discussed, but when did you have that
17 conversation with Jamie?

18 A. Sometime last week.

19 Q. Okay. Was that over the phone?

20 A. Yes.

21 Q. Okay. And how long was that phone
22 conversation?

23 A. I don't recall specifically. It
24 was less than an hour.

25 Q. Okay. Other than that phone

1 conversation, have you had any other meetings
2 or phone conversations with counsel in
3 preparation for your deposition?

4 A. No.

5 Q. Okay. Other than counsel, is
6 there anyone else you've spoken with regarding
7 your deposition today?

8 A. No.

9 Q. What else have you done to prepare
10 for your deposition today besides speaking with
11 anyone?

12 A. Nothing.

13 Q. You didn't review any documents?

14 A. Jamie put forth a couple
15 documents, but that was it.

16 Q. Okay. What documents were those
17 that you reviewed?

18 A. I actually don't recall.

19 Q. You don't recall anything about
20 them? Were they emails or --

21 A. I think one was a -- some type of
22 Skype message.

23 Q. Do you recall the date on that?

24 A. I do not.

25 Q. Besides the Skype message, what

1 else did you review?

2 A. I don't recall.

3 Q. But you do recall there were other
4 documents you looked at? You just can't recall
5 what they were?

6 A. In hindsight, I'm sure there was
7 one. I'm not sure if there was more than one,
8 to be honest.

9 Q. Anything else you did to prepare
10 for your deposition today?

11 A. No.

12 Q. Okay. You used to work at U.S.
13 Bank?

14 A. Yes.

15 Q. What's your current position?

16 A. Executive vice president, consumer
17 and business banking operations.

18 Q. Is that typically referred to as
19 CBSS, an acronym?

20 A. I think at one time we were
21 referenced as that. It's now referenced as
22 CBBO.

23 Q. Got it. And how long have you
24 held that position?

25 A. I came to the bank, started with

1 the bank in May of '14.

2 Q. So have you held this executive
3 vice president position of consumer -- I think
4 it was consumer and business banking
5 operations, is that right? Have you held it
6 since you started in 2014?

7 A. My responsibility in 2014
8 encompassed just mortgage servicing. And over
9 the years, I've added more responsibility;
10 hence, the title change to the unit.

11 Q. Okay. And in your current role, I
12 want to get an understanding of how many
13 employees report to you both directly and
14 indirectly. So let's start with direct. How
15 many direct reports do you have in your current
16 role?

17 A. I believe I have nine including my
18 admin.

19 Q. Okay. And how about anyone who
20 reports up, how many employees are under you?

21 A. North of 4,000.

22 Q. Okay. In your current role, what
23 divisions of the bank report to you?

24 A. Well, I'm responsible for mortgage
25 servicing. I'm responsible for consumer loan

1 servicing. I'm responsible for a group that is
2 called branch operations that supports our
3 retail branches. I have responsibility for a
4 business banking credit group that underwrites
5 business banking credit loans. And I have a
6 wholesale credit underwriting group as well.
7 And I have a piece of business banking
8 servicing.

9 Q. And then who do you report to?

10 A. Tim Welsh, who is vice chair --
11 one of the vice chairs of the bank.

12 Q. Do you have hiring and firing
13 authority in your position?

14 A. Yes, subject to HR approval.

15 Q. What do you mean by that?

16 A. Meaning that all of our offers,
17 all of our terminations, would be reviewed by
18 HR before execution.

19 Q. You make a recommendation and HR
20 has to approve it? Is that what I'm hearing?

21 MS. GOETZ-ANDERSON: I'm sorry,
22 David. I'm going to object that that
23 mischaracterizes his testimony, but, David, you
24 can answer if you're able to.

25 THE WITNESS: Okay. Can you repeat

1 the question?

2 MR. SMITH: Yeah. Stacey, can you
3 read that back?

4 (Record read.)

5 THE WITNESS: Yes. We would want
6 their agreement on whatever action we took, yes.
7 I wouldn't say they approve it, but we would want
8 their agreement.

9 BY MR. SMITH:

10 Q. Do you have to have their
11 agreement before you can execute a termination?

12 A. In my mind, yes.

13 Q. Okay. HR is typically involved in
14 any termination decision?

15 A. Yes.

16 Q. Is that the same with hiring?

17 A. Yes.

18 Q. Let's go back to when you first
19 started at the bank in May of 2014. You were
20 hired on as an executive vice president,
21 correct?

22 A. Yes.

23 Q. Okay. At that time did you also
24 report to Tim Welsh?

25 A. No.

1 Q. Who did you report to at that
2 time?

3 A. Kent Stone.

4 Q. Who is Kent Stone?

5 A. Was a vice chair with the bank.
6 Retired.

7 Q. Okay. Same reporting structure?
8 It's just that Kent Stone, was he replaced by
9 Tim Welsh?

10 A. Yes.

11 Q. And then in 2014 when you started,
12 what divisions of the bank reported to you?

13 A. Mortgage servicing.

14 Q. Any others?

15 A. No.

16 Q. At what point did you gain the
17 additional divisions of the bank reporting to
18 you, the ones we just discussed? I think there
19 were six.

20 A. I think consumer servicing late
21 '17/early '18; branch operations, '18; business
22 banking was in that '17/'18 time frame;
23 wholesale credit was in the October '20 time
24 frame.

25 Q. Why did these divisions start

1 reporting to you in those various time frames?

2 A. Those were decisions made by Kent
3 and Tim.

4 Q. Why were those decisions made?

5 MS. GOETZ-ANDERSON: Objection.
6 Calls for speculation.

7 BY MR. SMITH:

8 Q. You can answer.

9 THE WITNESS: Okay. Do I have to
10 answer that?

11 MS. GOETZ-ANDERSON: Yes. If you
12 can, you can answer it.

13 THE WITNESS: Okay. Well, you know,
14 based on the performance of our group as well as
15 some changes made within the vice chair structure
16 is why we ended up with that additional
17 responsibility.

18 BY MR. SMITH:

19 Q. All right. Let's start with the
20 performance of the group. What was -- what was
21 the performance of the group? I mean, explain
22 that to me. How did that prompt this change?

23 A. Well, again, I'm speculating.
24 High performing team who successfully exited a
25 difficult consent order as well as exceeded

1 investor expectations.

2 Q. Any other performance-related
3 bases for this change?

4 A. No.

5 Q. And, to be clear, the performance
6 items you had mentioned, is that applying to
7 all of these additional divisions that ended up
8 reporting to you?

9 A. Yes.

10 Q. Okay.

11 A. Again, it's speculation, but, you
12 know, my own personal performance as well as
13 the team led to additional responsibility.

14 Q. Well, where are you getting that
15 speculation from?

16 A. Getting in the head of my vice
17 chair.

18 Q. Okay. Did he tell you anything
19 like that?

20 A. I don't recall.

21 Q. Okay. Did anyone else tell you
22 that it was because of performance of the group
23 and changes within the vice chair?

24 A. Well, I will say regarding the
25 consumer move, the individual who was reporting

1 to Kent left the company, so Kent took that
2 opportunity to do a restructure.

3 Q. Kent conveyed that to you, that he
4 was going to do this restructuring?

5 A. Yes.

6 Q. What specifically did he convey to
7 you?

8 A. I don't recall.

9 Q. Did he give you direction as to
10 how this was going to be done?

11 A. You know, speculation, again, yes,
12 but I don't recall specifics.

13 Q. Well, I don't know if it's
14 speculation. I mean, you're saying he did
15 convey to you that that was how it was going to
16 be done; you just don't recall what he said?

17 A. Yes. That's right.

18 Q. Okay. When did he convey that to
19 you?

20 A. Don't know the exact dates.
21 Around that time frame when that happened.

22 Q. That time frame, that being late
23 2017/early 2018?

24 A. Yes.

25 Q. Okay. Who was in charge of

1 this -- I'm going to call it a reorganization.
2 You might also call it a merger between these
3 divisions. But who was in charge of it?

4 A. Well, when the responsibility
5 transferred to my group, ultimately myself.

6 Q. What about the process where
7 they're being transferred and obviously you
8 have employees from one division merging into
9 another? Who was in charge of ensuring that
10 goes smoothly and that everything gets
11 completed?

12 A. Well, ultimate accountability -- I
13 mean, I'm the leader of the group, but there's
14 multiple teams of people involved in any
15 integration.

16 Q. And all those groups are reporting
17 to you, right?

18 A. No. HR would not report to me.

19 Q. Okay. Other than HR, anyone else
20 who would not report to you?

21 A. You know, from a technology -- I
22 mean, we have business partners in technology,
23 compliance, risk. We have a lot of business
24 partners that we would count on to assist.

25 Q. Are you saying business partners,

1 tech, compliance, risk, did not report to you
2 under these divisions?

3 A. No.

4 Q. No, you're not saying that?

5 A. No. I'm saying they did not
6 report to me.

7 Q. Okay. Well, then maybe it's
8 easier -- which ones did report to you?

9 A. The operational groups.

10 Q. What -- tell me who falls under
11 the operational groups.

12 A. I don't recall specifically who
13 were the operational groups in 2017.

14 Q. Okay. But those all did report to
15 you, and those groups were being merged
16 together, right?

17 A. Yes.

18 Q. Between lending services and
19 mortgage?

20 A. Yes.

21 Q. And were you ultimately the person
22 in charge of those groups and those being
23 merged together and how that process was going
24 to go?

25 A. Yes, again, subject to, where

1 needed, HR approval.

2 Q. Are there any other reasons why
3 this merger was occurring in late 2017 or early
4 2018 between mortgage and consumer lending that
5 we haven't discussed?

6 A. Not that I'm aware of.

7 Q. Okay. U.S. Bank wasn't having any
8 financial issues or these divisions weren't
9 aware as to the bases why this was occurring?

10 A. The bank was not having financial
11 issues, no.

12 Q. Was it your understanding that
13 employees were going to be terminated as a
14 result of this reorganization?

15 A. No expectations.

16 Q. Did employees end up being
17 terminated as a result of this reorganization?

18 A. I believe there was some employee
19 actions taken, yes.

20 Q. How many employees were let go?

21 A. No recollection.

22 Q. None at all?

23 A. No.

24 Q. Okay. This is your division,
25 right? I mean, these are employees who report

1 up to you eventually, right?

2 A. Yes.

3 Q. Okay. Who made the decision to
4 let these employees go?

5 A. It would have been my direct
6 reports along with human resources.

7 Q. Did your direct reports inform you
8 that they were letting employees go?

9 A. Not to the specific employee
10 level, no.

11 Q. Okay. What did they inform you
12 about regarding employee termination?

13 A. Typically I would be advised of
14 counts, but I wouldn't be advised and get into
15 employee decisions.

16 Q. What do you mean by count?

17 A. Whether, you know, there was
18 duplication and, you know, we were letting go X
19 number of people because we had duplication or
20 whatever, but not to the employee level.

21 Q. Okay. At some point were you
22 informed how many employees were being let go?

23 A. Yes.

24 Q. Did you direct your reports to
25 determine whether certain employees would be

1 let go or positions would be eliminated?

2 A. No.

3 Q. So they did that on their own
4 without any direction?

5 A. Yes.

6 Q. Okay. How many of your direct
7 reports made that determination that certain
8 employees would be let go?

9 A. Well, I don't know how many
10 direct -- I'd have to go back and see how many
11 direct reports I had at the time, but anyone
12 running an operational or support group, you
13 know, would have made that determination.

14 Q. Any of your direct reports
15 indicate that no employees were going to be let
16 go?

17 A. I don't recall that.

18 Q. You don't recall one way or the
19 other?

20 A. No.

21 Q. We'll come back to the specific
22 merger we're talking about in a bit, but I want
23 to ask you more generally at U.S. Bank is
24 there -- are there processes in place through
25 HR or otherwise when there's a reorganization

1 of this type that are to be followed?

2 A. Yes, sir.

3 Q. Well, let me ask you this way.
4 With respect to employees being let go, are
5 there certain written policies or procedures
6 that are supposed to be followed?

7 A. I don't know and I don't have -- I
8 don't have reference to any exact policies or
9 procedures other than HR approval is required.

10 Q. Okay. Do you have any awareness
11 as to how HR approves such a decision?

12 A. Not specifically, no.

13 Q. Okay. Are you familiar with the
14 term peer group analysis?

15 A. Yes.

16 Q. Okay. Can you explain to me just
17 briefly what that is?

18 A. Understanding that would be a
19 review of like-type positions where various
20 factors are used to do an analysis, be it
21 performance, be it experience, being job type,
22 et cetera.

23 Q. What's the purpose of performing a
24 peer group analysis?

25 A. I believe it involves the

1 appropriateness and, you know, selection of
2 individuals who may be actioned and may not be.

3 Q. When you say actioned, do you mean
4 terminated?

5 A. Yes.

6 Q. Is that process required whenever
7 two or more employees in the same group are
8 being terminated or considered for termination?

9 A. I don't know if there's a
10 number -- exact number associated with it or
11 not.

12 Q. Okay. Who conducts the peer group
13 analysis?

14 A. I believe our HR group along with
15 the business team.

16 Q. What business team? What
17 encompasses the business team?

18 A. The operations team.

19 Q. Is there more than -- I'm just
20 kind of trying to understand who does it. So
21 when you say the operations team, is that more
22 than one person besides HR?

23 A. I don't know.

24 Q. Have you ever done a peer group
25 analysis yourself?

1 A. I have not.

2 Q. Have you ever been involved in one?

3 A. No.

4 Q. Your direct reports have conducted
5 them, is that right?

6 A. I don't know.

7 Q. Do you know if peer group analyses
8 have ever been performed at U.S. Bank?

9 A. Yes. I've heard them referenced,
10 yes.

11 Q. Okay. But you don't know if any
12 of your direct reports have ever done one?
13 You've never done one? Did you know of any
14 examples where it's been done?

15 A. Not specifically, no.

16 Q. Are you trained on peer group
17 analyses at U.S. Bank?

18 A. Myself personally, I have not been.

19 Q. Okay. Are others trained on the
20 peer group analysis?

21 A. I don't know.

22 Q. Does a peer group analysis have to
23 be performed whenever an employee is being
24 terminated?

25 A. For any -- for any reason?

1 Q. Right. For any reason.

2 A. Not that I'm aware of.

3 Q. Okay. What are the circumstances
4 where a peer group analysis would not be
5 performed?

6 A. Employee is terminated for not
7 showing up at work. That would be an example.

8 Q. So performance related or
9 misconduct? Is that what you're saying?

10 A. Yes.

11 Q. With a peer group analysis, again,
12 this is looking at two or more employees,
13 right?

14 MS. GOETZ-ANDERSON: Objection.
15 Asked and answered.

16 BY MR. SMITH:

17 Q. You're looking at two or more
18 employees in a peer group analysis in
19 determining which one is going to be kept and
20 which one is going to be let go?

21 MS. GOETZ-ANDERSON: Same objection.
22 David, you can answer if you're able to.

23 THE WITNESS: All right. Repeat the
24 question.

25 MR. SMITH: Can you read that back,

1 Stacey?

2 (Record read.)

3 THE WITNESS: Again, I don't know
4 enough about the process to answer that question.
5 BY MR. SMITH:

6 Q. Okay. How did you become aware of
7 the process that you've been describing?

8 A. I've heard it referenced by our HR
9 leaders.

10 Q. When?

11 A. Throughout the course of my time
12 at the bank.

13 Q. In what context would they
14 reference it?

15 A. I don't recall specifics.

16 Q. Did they reference it during these
17 reorganizations that you've been referring to?

18 A. I don't recall specifically.

19 Q. Okay. Going back to the
20 reorganization and merger between mortgage and
21 consumer lending, do you know if peer group
22 analyses were performed in that?

23 A. I don't know specifically.

24 Q. Do you know even generally whether
25 they were performed?

1 A. I believe so, but I don't have
2 direct knowledge.

3 Q. What gives you that belief?

4 A. Again, general discussion with HR
5 leaders.

6 Q. What do you mean by that?

7 A. Again, HR leaders referencing that
8 term in process.

9 Q. Right. They're talking about this
10 specific reorganization. Your belief was based
11 on these general discussions. I mean, is there
12 a discussion you're referring to or is this
13 just you've had these discussions with the bank
14 throughout your employment so you think it
15 would have occurred here?

16 A. The latter.

17 Q. Okay. No one told you that any
18 sort of peer group analysis was going to be
19 performed?

20 A. Yeah. I recall no specifics.

21 Q. At the time of this reorganization
22 and merger, Bryan Bolton was reporting to you?

23 A. I believe so.

24 Q. Okay. Was he reporting to you
25 prior to this merger?

1 A. I believe so.

2 Q. Okay. And what was his role prior
3 to the merger?

4 A. He ran my internal risk and
5 control area.

6 Q. You were his direct supervisor at
7 this time and after the merger?

8 A. Yes.

9 Q. Okay. You performed his -- did
10 his performance reviews?

11 A. Yes.

12 Q. You had had frequent conversations
13 with him, right?

14 A. Yes.

15 Q. Okay. Mr. Bolton, he was a part
16 of this merger as far as employees that were
17 going to be put from two divisions into one?
18 He was doing that?

19 A. Yes.

20 Q. Okay. He was part of that
21 operational group that you were referring to
22 earlier, right?

23 A. Yes.

24 Q. Okay. Do you recall Mr. Bolton
25 providing you any feedback during this whole

1 reorganization process?

2 A. No, not specifically.

3 Q. Do you recall him even generally
4 telling you how it was going?

5 A. Not specifically, no. I don't
6 recall.

7 Q. Well, I'm not asking specifically.
8 Did he ever give you any feedback at all, even
9 if you don't recall what it was?

10 A. I'm sure he did, but I don't recall.

11 Q. Did he at some point inform you
12 that employees were going to be let go from his
13 team?

14 A. I'm not sure if Bryan did directly
15 or our HR leader did, but at some point I would
16 have been made aware of the number, yes.

17 Q. Okay. You don't recall what the
18 number was, right?

19 A. No. No.

20 Q. So more than a handful?

21 A. I don't recall. I believe so, but
22 I don't recall exactly.

23 Q. Okay. Did he tell you the
24 reason -- or Tim or HR, did they tell you the
25 reason why these employees, even if you didn't

1 know the names, why these ones were being let
2 go?

3 A. Typically either duplication of
4 function or ability to outsource the work
5 versus internal. Two common reasons that crop
6 up in these things.

7 Q. Okay. You referenced those as
8 typically what happens. Is that what he told
9 you?

10 A. I don't recall in this case.

11 Q. If employees under your division
12 are going to be let go, do you need to know
13 why?

14 A. No.

15 Q. Why not?

16 A. Because I have direct reports who
17 have -- I have trust in their judgment along
18 with our HR group.

19 Q. Have you ever had occasion to
20 audit one of these decisions where one of your
21 direct reports or the HR group has made a
22 decision that has been questioned?

23 A. Not that I'm aware of, no.

24 Q. Okay. Changing gears a bit, I
25 want to talk about antidiscrimination and

1 harassment policies at U.S. Bank. I believe
2 U.S. Bank has a policy in place regarding
3 discrimination, is that right?

4 A. Yes.

5 Q. Are you familiar with that policy?

6 A. Not specifically. I couldn't
7 recite it.

8 Q. Have you been trained on the
9 policy?

10 A. Yes.

11 Q. When did you receive training on
12 the policy?

13 A. I believe we do an annual -- that
14 might be an annual certification.

15 Q. Who all has to get that annual
16 certification?

17 A. I believe anybody in a manager
18 role.

19 Q. That would include all of your
20 direct reports?

21 A. Yes.

22 Q. What topics does that training
23 cover? I mean, I've referenced discrimination,
24 but did you cover other areas within that such
25 as harassment or retaliation?

1 A. I don't recall specifically.

2 Q. Okay. Do you recall if it covers
3 complaint procedures?

4 A. It's a pretty broad category. Can
5 you be more specific?

6 Q. Yeah. Complaints regarding
7 discrimination, harassment, retaliation?

8 A. I believe so.

9 Q. Okay. And how do complaints of
10 that nature work at U.S. Bank? So if an
11 employee makes a complaint, I'm trying to
12 understand where they make it and then how is
13 it handled.

14 A. I believe our HR team would get
15 involved, and we have an employee relations
16 team along with HR that would investigate that
17 complaint.

18 Q. The HR team, is there a specific
19 team assigned to each department?

20 A. Yeah. I have a leader who is
21 associated with my team, and they have
22 individuals under them who support my direct
23 reports.

24 Q. During this merger we were talking
25 about in late 2017/early 2018, who was your

1 leader for HR?

2 A. Either would have been Bill Watson
3 or Andrea Bond. I'm not sure when that
4 transition took place.

5 Q. With Mr. Bolton as your direct
6 report, do you know who his HR team was?

7 A. I do not.

8 Q. Do you have any reason to dispute
9 it might be Diane Watson?

10 A. No.

11 Q. Do you know who Diane Watson is?

12 A. Yes.

13 Q. And who is she?

14 A. She would have been an HR lead who
15 would have worked under Bill and/or Andrea.

16 Q. Was there a point in time where
17 she was your HR business partner?

18 A. My direct business partner or --
19 not that I recall.

20 Q. Okay. Did she work with you in
21 mortgage servicing prior to this merger?

22 A. I don't recall that either.

23 Q. Are you familiar with something
24 called a centralized investigation team or CIT
25 at U.S. Bank?

1 A. I think you're referencing what I
2 referenced as a, you know, employee relations
3 team, yes.

4 Q. Okay. Explain to me what that is,
5 the CIT team or the employee relations team. I
6 mean, what do they do?

7 A. I think they investigate the
8 employee's complaint.

9 Q. Okay. So they do that and the HR
10 team does that as well?

11 A. I think the HR team at some point
12 hands that off to the employer relations team,
13 provides input information, but, you know, the
14 CIT or employee relations team actually
15 completes the investigation or complaint.

16 Q. Has that been the case throughout
17 your employment at U.S. Bank?

18 A. Yes.

19 Q. And CIT or the employee relations
20 team, just to be clear, they handle all of the
21 complaints related to discrimination,
22 harassment, retaliation, anything falling under
23 that antidiscrimination policy?

24 A. I don't know that specifically.

25 Q. Okay. Have you ever been involved

1 in investigations of the nature we're talking
2 about since -- throughout the time you've been
3 employed at U.S. Bank?

4 A. Not that I'm aware of.

5 Q. All right. Mr. Little, I'm going
6 to put an exhibit in front of you. This is
7 being shared through Exhibit Share software.
8 So do you have that software available and are
9 you able to open the exhibit?

10 A. I'm in the Veritext Exhibit Share
11 area.

12 Q. It may take a minute to upload, so
13 just --

14 MS. GOETZ-ANDERSON: David, you might
15 have to -- if you like refresh or double click on
16 the marked exhibits folder, and then it will show
17 up. It should show up there.

18 (Thereupon, Plaintiffs' Exhibit 1,
19 Policies & Resources, Workplace Respect, was
20 marked for purposes of identification.)

21 THE WITNESS: So something labeled
22 workplace respect showed up.

23 BY MR. SMITH:

24 Q. Yes. Have you ever seen this
25 policy before?

1 A. Let me access it. I believe I
2 would have seen it, yes.

3 Q. Okay. We had discussed some
4 training. Is this one of the policies that
5 you're trained on?

6 A. Okay.

7 Q. There's a section with the heading
8 of we prohibit sexual harassment. Do you see
9 that?

10 A. Yes.

11 Q. Okay. Going to the very bottom
12 line of that first page, can you go ahead and
13 just read that for me all the way through to
14 the colon at the end?

15 A. You're referring to the line that
16 begins sexual harassment?

17 Q. Yeah. They all do. Sexual
18 harassment may be verbal or nonverbal.

19 A. Okay. Sexual harassment may be
20 verbal or nonverbal. Remember, it isn't about
21 intent; it's about the effect harassment has on
22 others. We will not tolerate the following
23 behaviors, which have the potential of being
24 considered sexual harassment.

25 Q. Okay. And then if we move to the

1 second page, it looks like there's examples of
2 verbal and nonverbal examples of potentially
3 being sexual harassment. Do you see that?

4 A. Yes.

5 Q. Indicated in there is making
6 sexual or derogatory comments, correct?

7 A. Yes.

8 Q. Okay. Also making harassing phone
9 calls, correct?

10 A. Yes.

11 Q. Okay. And in the line below that,
12 if you could read that for me for the record.
13 It starts with further, we won't tolerate.

14 A. Further, we won't tolerate any
15 other unprofessional or disrespectful behavior.
16 The following examples may or may not
17 constitute sexual harassment, but they're
18 unprofessional and don't belong in the
19 workplace.

20 Q. Okay. Go ahead and read those
21 examples for me.

22 A. Using language that's degrading or
23 abusive. Telling jokes of a sexual nature or
24 making sexually explicit comments. Referring
25 to someone as babe, a hunk, honey, or similar

1 terms. Talking about one's sex life or sex
2 life of coworkers, customers, or others.
3 Turning innocuous statements into sexual
4 innuendoes.

5 Q. Okay. And you'd agree that all of
6 those examples are examples that could be
7 considered sexual harassment and aren't
8 tolerated at U.S. Bank?

9 A. Yes. Could be. Yes.

10 Q. And then, finally, directing you
11 to the last page, there's a heading of
12 nonretaliation. If you could read that policy
13 for me?

14 A. We do not tolerate retaliation
15 against anyone in connection with a good faith
16 report of harassment or other inappropriately
17 conduct. Not only is retaliation a violation
18 of this policy and the code of ethics and
19 business conduct, it is also illegal. We
20 investigate all retaliation allegations.
21 Anyone who engages in retaliatory behavior will
22 face disciplinary action, up to and including
23 termination. If you believe that you or
24 someone else is experiencing retaliation,
25 report it to the resources below.

1 Q. Okay. And you'd agree that U.S.
2 Bank prohibits retaliation against employees?

3 A. Yes. Yes.

4 Q. And all allegations of retaliation
5 are supposed to be investigated pursuant to
6 this policy?

7 A. Yes.

8 Q. Changing gears a bit again, have
9 you heard of -- are you familiar with the
10 Legends of Possible Award at U.S. Bank?

11 A. Yes.

12 Q. And what is that award? Can you
13 just describe it for me?

14 A. It is an annual award that came
15 into play a few years ago to recognize people
16 within the bank. It actually was an award that
17 anyone in the organization could recommend
18 somebody else for.

19 Q. Okay. What are the criteria for
20 receiving it?

21 A. You know, don't have specifics,
22 but high performance or some type of
23 achievement that was, you know, perhaps above
24 and beyond. Something that resonated with
25 someone enough to nominate someone.

1 Q. You'd agree this would be given to
2 the best -- to some of the best employees at
3 U.S. Bank, right?

4 A. Typically, yes.

5 Q. Are there occasions where it
6 wouldn't be given to the best employees of the
7 bank?

8 A. Assumption on my part, but it is a
9 subjective process.

10 Q. What do you mean by that?

11 A. Meaning there aren't specific
12 performance criteria associated with it.

13 Q. Since there aren't specific
14 criteria associated with it, you might not
15 necessarily get the best person in all
16 occasions?

17 A. Correct.

18 Q. Regardless, though, it is
19 typically given to a top performer at the bank
20 or someone who's had an achievement that's gone
21 above and beyond? I mean, that's -- you're
22 saying that's how it's typically awarded?

23 MS. GOETZ-ANDERSON: Objection.
24 Asked and answered. Sorry. David, you can go
25 ahead.

1 THE WITNESS: That's the intent.

2 Yes.

3 BY MR. SMITH:

4 Q. Okay. Is that -- I mean, is that
5 how it's executed in your -- is it your
6 understanding it's executed that way?

7 MS. GOETZ-ANDERSON: Objection.

8 Asked and answered. David, again, you can answer
9 if you can.

10 THE WITNESS: Yes.

11 BY MR. SMITH:

12 Q. Have you ever received the Legends
13 of Possible Award?

14 A. No.

15 Q. Have you ever nominated anyone?

16 A. I may have, but I don't recall
17 specifically.

18 Q. Have any of your direct reports
19 ever received the Legend of Possible Award?

20 A. Not that I'm aware of. Typically,
21 I'm a host at the event, and typically I might
22 select, you know, one or two of my direct
23 reports to attend as well. I don't know if
24 they're specifically excluded, but I don't
25 believe anyone has, other than going as a host,

1 received the award.

2 Q. Okay. What do you do as the host
3 at the event?

4 A. Meet and greet. Meet the
5 employees. Participate in the events.

6 Q. Okay. And I don't think we talked
7 about this, but it sounds like you're saying
8 there's an event that takes place. Is that at
9 a particular location?

10 A. Yes. Typically, up until COVID,
11 there would be a location where winners and
12 their guests were sent.

13 Q. Are their expenses all paid for
14 that?

15 A. Yes.

16 Q. Okay. Do they receive -- what all
17 do the award recipients get as a result?

18 A. I think they get a memento of some
19 type, and typically there's some gifts
20 associated with that as well.

21 Q. These occurring before COVID
22 anyway, would these occur over a number of
23 days?

24 A. Yes. Three to four days.

25 Q. How many days? Three to four

1 days? Okay. When someone gets nominated for
2 this award, are they always selected or is
3 it -- do they have to be nominated and then
4 someone approves them?

5 A. The latter.

6 Q. Okay. And then if that's the
7 case, who approves the nominations?

8 A. Typically, it's going to be my
9 direct report for their group.

10 Q. Okay. So if it's Bryan Bolton,
11 one of his direct reports, he would approve it?
12 Is that what you're saying?

13 A. Yes.

14 Q. Okay. Do you have involvement in
15 that process at all?

16 A. No.

17 Q. Other than hosting the event, what
18 other involvement do you have in the Legends of
19 Possible Award?

20 A. None outside of, you know, maybe
21 some email communications of congratulatory
22 nature to the group in total. I may also
23 allocate -- I may also allocate -- we're
24 allocated -- you know, we might get 60 awards
25 that are allocated to my entire group, so I may

1 allocate those 60 out to my directs.

2 Q. So you get a certain number of
3 awards that your team can basically give to
4 employees?

5 A. Yes.

6 Q. Is there a percentage associated
7 with that? So, for instance, if you have 500
8 people under you, is it one percent of that or
9 five percent, ten percent?

10 A. Yeah, I mean, you can do the math.
11 We typically get around 70 for 4,000 plus.

12 Q. Okay. Was that the case in 2017
13 and 2018? It may have changed a bit with the
14 merger, but was it around that same ratio?

15 A. I believe so.

16 Q. How many nominations are there
17 versus those that are actually accepted?

18 A. I think the high mark was -- you
19 know. You know, we've had upwards of 500
20 nominations. I would say the first year we did
21 it, it was far less, maybe less than 200.

22 Q. And let's start with the 500.
23 That's 500 nominations under your group, and if
24 we're using the same example, that
25 approximately 70 of those nominations would be

1 selected?

2 A. Yes.

3 Q. Okay. When was the first year it
4 started? I apologize if you said it. I didn't
5 hear it.

6 A. Yeah, I don't recall if it was '17
7 or '18. I believe there were two trips pre
8 COVID, so that kind of lines with '17 and '18.

9 Q. Is the award still being given out
10 today?

11 A. Yes. It was maybe about 200 or
12 less in the first year, and then it was about
13 500.

14 Q. Is the 500, was that in the second
15 year of your example?

16 A. I don't recall. I think -- I'm
17 referencing more so in past years, more recent.

18 Q. Okay. So it started around 200
19 nominations, eventually went up to around 500
20 now, not sure how many it was between then?

21 A. Yes.

22 Q. Okay. Sounds like a fairly
23 prestigious award, is that fair to say?

24 A. Yes. Yes.

25 MR. SMITH: All right. We've been

1 going a little over an hour. I want to take just
2 a ten-minute break if that works.

3 MS. GOETZ-ANDERSON: Sure.

4 THE WITNESS: Yes.

5 (Pause in proceedings.)

6 BY MR. SMITH:

7 Q. Okay. We're back on. Mr. Little,
8 you're still under oath. Going back to the
9 reorganization efforts, and I want to talk
10 about it kind of in general, when employees are
11 displaced as a result of one of these
12 reorganizations or mergers, does U.S. Bank make
13 any efforts to place them in another position?

14 A. I think they're made aware of
15 other open positions.

16 Q. How are they made aware of that?

17 A. I don't know specifically.

18 Q. Is there someone who would make
19 them aware?

20 A. I don't know specifically.

21 Q. Do you know generally?

22 A. I don't know if HR gives them that
23 direction. They all have access to open
24 positions throughout the company.

25 Q. Okay. Does U.S. Bank have a

1 policy of making attempts to place displaced
2 employees in other open positions?

3 A. I don't know of a specific policy.

4 Q. Those employees remain eligible
5 for other positions at the bank, right?

6 A. To my knowledge, yes.

7 Q. They're eligible for -- even after
8 they're terminated, they would be eligible for
9 rehire?

10 A. I believe so, yes.

11 Q. Does U.S. Bank ever place an
12 employee in a lower level position versus
13 terminating them in this circumstance?

14 A. I don't know specifics, if that's
15 happened or not.

16 Q. There's nothing that prevents
17 that, right?

18 A. Not that I'm aware of.

19 Q. Prior to the mortgage servicing
20 and consumer lending reorganization, was there
21 a merger in the consumer lending division
22 between consumer lending and I believe it was
23 commercial and student loans? Do you recall
24 anything like that?

25 A. No.

1 Q. Okay. If there was something of
2 that nature, you wouldn't have had any
3 involvement in it?

4 A. No.

5 Q. Prior to the merger, who was in
6 charge of consumer lending?

7 A. Consumer lending servicing was run
8 by a person named Sandra Broderick.

9 Q. What was her position?

10 A. She was an EVP.

11 Q. What happened to her after this
12 merger?

13 A. Which merger are you referring to?

14 Q. Sorry. The merger between
15 consumer and mortgage.

16 A. She voluntarily left the bank
17 beforehand.

18 Q. So her position was never replaced --

19 A. Correct.

20 Q. -- right?

21 A. Correct.

22 Q. Did her resignation factor into --
23 do you know if her resignation factored into
24 the decision to merge these two divisions?

25 A. Yes.

1 Q. Yes, it did?

2 A. Yes.

3 Q. Prior to this lawsuit, were you
4 familiar with Mark Pannek and Tom Strotman?

5 A. Not that I can recall.

6 Q. Okay. You had -- you don't recall
7 ever meeting either of them?

8 A. No.

9 Q. Were you aware that Tom Strotman
10 received the Legends of Possible Award?

11 A. No.

12 Q. Okay. Do you typically meet all
13 the employees who are receiving the awards on
14 the trips that you go on with them?

15 A. I've only been able to host one
16 trip.

17 Q. Okay. And which one did you host?

18 A. One that was held in Tucson,
19 Arizona.

20 Q. What year was that?

21 A. I want to say '18, but I'm not
22 sure. It could have been '17.

23 Q. And back to my question, did you
24 meet all the recipients in 2018?

25 A. Probably not.

1 Q. How many would you have met?

2 A. Don't know. It's a large group
3 attending.

4 Q. Would you have been made aware of
5 who was receiving the award that was under your
6 division?

7 A. Yes.

8 Q. Okay. In 2018 Tom Strotman was
9 under your division, is that right?

10 A. I don't recall.

11 Q. You don't recall whether Mark
12 Pannek was either?

13 A. No.

14 Q. Prior to this litigation, have you
15 ever heard Mark Pannek or Tom Strotman's name
16 before?

17 A. Not that I'm aware of.

18 Q. Had you ever heard of any
19 complaints that either of them had made during
20 their employment?

21 A. Not that I recall.

22 Q. On Bryan Bolton's team, were you
23 ever informed prior to this litigation of a
24 complaint made against John Gemrich?

25 A. Yes.

1 Q. And what complaint were you made
2 aware of?

3 A. I believe it was a complaint that
4 involved John making sexual comments.

5 Q. What sexual comments?

6 A. I don't recall specifics.

7 Q. Do you recall generally what they
8 were?

9 A. No.

10 Q. Who told you -- who -- strike
11 that. Who informed you of this complaint?

12 A. I'm not sure if it was Bryan or my
13 HR leader at the time.

14 Q. And who was your HR leader at the
15 time?

16 A. I believe Andrea.

17 Q. And when did either Bryan or
18 Andrea inform you of this complaint?

19 A. When?

20 Q. Yeah.

21 A. Yeah, I don't recall specifically.

22 Q. Do you recall the month or the
23 year?

24 A. I don't.

25 Q. Is John Gemrich still employed at

1 the bank?

2 A. No.

3 Q. When did his employment end?

4 A. I don't recall specifically. It's
5 been a while.

6 Q. Was it in the last year?

7 A. I think it was prior.

8 Q. Prior to 2020?

9 A. Yeah, it was prior to COVID, so
10 yes.

11 Q. Okay. What -- understanding you
12 don't know if it was Bryan or your HR leader,
13 but what did they -- what else did they inform
14 you about the complaint against John Gemrich?

15 A. Outside of a complaint and of a
16 sexual nature, I don't recall any other
17 specifics.

18 Q. Okay. Did you provide any feedback?

19 A. Not that I'm aware of.

20 Q. Okay. Were you concerned about it?

21 A. Yes.

22 Q. And why were you concerned about it?

23 A. I'm concerned about any complaint
24 regarding a leader in my organization.

25 Q. Were you concerned that the

1 complaint was about Mr. Gemrich making
2 complaints of a sexual nature -- I'm sorry --
3 comments of a sexual nature?

4 A. Just concerned about a complaint
5 in general.

6 Q. Okay. That -- does the fact that
7 they were of a sexual nature, that didn't
8 factor into you being concerned at all?

9 A. No. As I said, any complaint is
10 concerning.

11 Q. Okay. How was that complaint
12 handled?

13 A. I don't recall specifically. I
14 think we talked about that process earlier.

15 Q. Was it handled in that same process?

16 A. I don't recall.

17 Q. Okay. Other than the -- when you
18 were informed of this complaint by either Bryan
19 Bolton or the HR leader, were you informed of
20 anything else regarding the allegations against
21 Mr. Gemrich?

22 A. Not that I recall.

23 Q. Were you told they were
24 substantiated?

25 A. Not that I recall.

1 Q. I understand you don't recall what
2 the specific explicit comments were, but at
3 some point did someone inform you what those
4 comments were?

5 A. I believe Bryan made reference to
6 them in a conversation, you know, regarding his
7 sexual behavior. You know, I do recall a
8 conversation -- a general conversation.

9 Q. And that was Bryan that told you
10 that?

11 A. Yes.

12 Q. Okay. And do you recall when that
13 conversation occurred?

14 A. I do not.

15 Q. Do you recall ever being told when
16 the complaint was made?

17 A. No.

18 Q. What was your expectation
19 regarding the complaint and how it should be
20 responded to?

21 A. That our HR and employer relations
22 team would investigate accordingly and react
23 accordingly.

24 Q. Okay. Did you expect that if it
25 was substantiated, action should be taken

1 against Mr. Gemrich?

2 A. As I said, I would expect that
3 those two groups would advise of the
4 appropriate action to take.

5 Q. Which two groups?

6 A. Our HR team as well as the
7 employee relations team, if it was investigated
8 by them.

9 Q. I think you had testified earlier
10 generally the employee relations team would
11 investigate these complaints, right?

12 A. Yes.

13 Q. You would expect that they would
14 have been investigating this case, right?

15 A. Yes.

16 Q. I know you indicated you don't
17 recall who complained or being told who
18 complained, but do you recall if it was one
19 person, two people, three, how many it was?

20 A. I don't recall.

21 Q. Okay. Do you recall whether it
22 was just one or more than one, even if you
23 don't know the specific number?

24 MS. GOETZ-ANDERSON: Objection.

25 THE WITNESS: No.

1 MS. GOETZ-ANDERSON: Asked and
2 answered.

3 THE WITNESS: No.

4 BY MR. SMITH:

5 Q. Okay. Was it your expectation
6 that you'd be told what the outcome of the
7 investigation would be?

8 A. No. I don't recall that.

9 Q. Did you care what the outcome
10 would be?

11 A. Yes. I cared that the appropriate
12 action and investigation took place.

13 Q. Okay. Did you ever verify whether
14 the appropriate action had taken place?

15 A. Not that I recall.

16 Q. Prior to this complaint, did you
17 know who John Gemrich was?

18 A. Yes.

19 Q. Okay. And explain to me who John
20 Gemrich is, what his position was at the bank.

21 A. John had a role in project
22 management, and at some point he -- I don't
23 recall if he was part of the merger or whether
24 he was hired by one of my directs before this
25 integration, but at some point he joined my

1 team.

2 Q. What was his role on your team?

3 A. I believe he had responsibility
4 for our QC function.

5 Q. Would you say quality control?

6 A. Yes.

7 Q. Do you know if John Gemrich had
8 any experience with quality control prior to
9 taking that role on in your team?

10 A. I don't recall.

11 Q. Where did John Gemrich fit in your
12 organization? Was he a direct report to you or
13 who did he report to?

14 A. I believe he reported to Bryan --

15 Q. Okay.

16 A. -- at some point.

17 Q. Was it ever reported to you that
18 there was ongoing fear of retaliation by John
19 Gemrich by his subordinates?

20 A. Not that I recall.

21 Q. We looked at that workplace
22 respect policy, and assuming there were
23 allegations that Mr. Gemrich was retaliating or
24 there was fear of retaliation, those should be
25 investigated, correct?

1 A. Yes. If somebody brought those
2 forth, yes.

3 Q. Okay. At the time of this
4 complaint against Mr. Gemrich, do you know who
5 Bryan Bolton's human resources business partner
6 was?

7 A. No.

8 Q. Other than the complaint we've
9 been discussing, are you aware of any other
10 complaints against Mr. Gemrich?

11 A. Not specifically, no.

12 Q. I know you're saying specifically.
13 Is there something you generally recall?

14 A. Just vaguely that there may have
15 been something else, but I don't recall
16 specifics.

17 Q. Okay. What are -- I understand
18 you don't know the specifics, but what are you
19 even generally referring to there, or are you
20 talking about something else?

21 A. I just vaguely remember there may
22 have been more than one complaint and no
23 recollection of what it might be.

24 Q. Okay. How did you become aware
25 that there may have been more than one

1 complaint?

2 A. Well, again, since I can't recall
3 anything specific, I don't know.

4 Q. Okay. But you do recall there may
5 have been more than one complaint; you just
6 don't know anything about who told you that,
7 what it was, when you were told that, anything?

8 A. Yes. That's right.

9 Q. Other than this vague recollection
10 there may have been something else, any other
11 complaints against Mr. Gemrich that you recall?

12 A. No, not that I recall.

13 Q. How about investigations? Do you
14 recall any other investigations into Mr. Gemrich?

15 A. No.

16 Q. You do recall Mr. Gemrich was --
17 that he's no longer employed with the bank,
18 right?

19 A. Yes.

20 Q. Okay. Was he -- did he resign
21 from the bank or was he let go?

22 A. I don't recall.

23 Q. You were informed of this one
24 complaint that we had discussed where
25 Mr. Gemrich had shared explicit details of his

1 sex life. Had there been other complaints, is
2 it your expectation you would have been made
3 aware of those as well?

4 A. I'm not aware of any others.

5 Q. I understand you're not aware of
6 any others, but if there were any, is it your
7 expectation that you would be made aware of
8 those?

9 A. Yes.

10 Q. Does Bryan Bolton need your
11 approval to make a termination decision?

12 A. No.

13 Q. Okay. He needs HR's approval,
14 though, similar to, I think you testified, you
15 needed HR's approval to make a decision?

16 MS. GOETZ-ANDERSON: I'm going to
17 object that mischaracterizes his testimony. I
18 think he said agreement, not approval.

19 MR. SMITH: Okay. Agreement is fine.

20 BY MR. SMITH:

21 Q. He would need HR's agreement in
22 order to execute a termination?

23 A. Yes.

24 Q. Other than HR, is there anyone
25 else he needs agreement or approval from to

1 execute a termination?

2 A. No.

3 Q. I'm going to introduce an exhibit
4 for you, Mr. Little, Exhibit 2.

5 (Thereupon, Plaintiffs' Exhibit 2,
6 email chain, was marked for purposes of
7 identification.)

8 BY MR. SMITH:

9 Q. I just uploaded it, so let me know
10 when you have it on your screen.

11 A. I have it.

12 Q. Okay. You had mentioned at the
13 beginning of today that you had gone over -- I
14 think you said it was a Skype conversation. Is
15 this the conversation that you reviewed?

16 A. Yes, I believe it is.

17 Q. Okay. And this would appear to be
18 a conversation between you and Mr. Bolton, is
19 that right?

20 A. Yes.

21 Q. Okay. First, does this refresh
22 your recollection at all as to whether
23 Mr. Gemrich had resigned or been let go?

24 A. No.

25 Q. Okay. Why don't you just read --

1 if you can just read Mr. Bolton's statements
2 from top to bottom here.

3 A. Mr. Bolton: Working with HR,
4 Gemrich is pinging people for data for his
5 resume and asked HR for his case file. They
6 advised no, starting to make noise about legal
7 action. Mr. Bolton: Here was my response.
8 Mr. Bolton: Yep, he can push, he can go to an
9 attorney, but two investigations and one
10 written warning in a year and throw in a
11 unicorn and it's not a good story for him.
12 Mr. Bolton: Besides OCC, you seemed pleased
13 with Mod recommendation.

14 Q. I don't see any statements from
15 you in here. Did you respond to any of these
16 messages?

17 A. Not to my recollection.

18 Q. Okay. Did you see these at some
19 point?

20 A. Couldn't recall that.

21 Q. Okay. So you and Mr. Bolton
22 typically converse via these instant messages?

23 A. It's typical.

24 Q. Okay. It appears he is telling
25 you about -- well, he's referring to two

1 investigations here. Do you have any idea what
2 he's referring to there?

3 A. I think I answered that.

4 Q. What's he referring to there?

5 A. Two investigations, which I
6 referenced one I was aware of and one I had
7 vague recollection of.

8 Q. Okay. And then one written
9 warning. Do you know what he's referring to
10 there?

11 A. Well, a written warning would be a
12 written documentation of action that
13 Mr. Gemrich needs to -- corrective action
14 Mr. Gemrich needs to take regarding something
15 that warranted a written warning.

16 Q. Okay. Do you know what that
17 written warning was about?

18 A. I do not.

19 Q. Do you know if you were ever made
20 aware of the written warning prior to this
21 instant message?

22 A. No recollection.

23 Q. Okay. When Mr. Bolton says here
24 was my response, is he referring to the next
25 line, do you know?

1 A. I don't know.

2 Q. Okay. And he references throw in
3 a unicorn. What's he talking about there?

4 A. My recollection is that term came
5 up in the nature of the sexual complaint.

6 Q. Okay. Does that refresh your
7 recollection as to what you were informed of
8 when you were told about that complaint?

9 A. No.

10 Q. Okay. Then how do you know that's
11 what the unicorn statement's referring to?

12 A. Well, I vaguely remember it
13 referred to.

14 Q. When?

15 A. At whatever time I became aware of
16 a complaint.

17 Q. Okay. So you did reference that
18 at the time you became aware of the complaint
19 something about a unicorn, and that's a sexual
20 reference?

21 A. I believe.

22 Q. Okay. And what specific
23 reference -- when he's talking about a unicorn,
24 what does he mean?

25 A. I don't know.

1 Q. Okay. Did you know at some point
2 and you just can't recall right now?

3 A. I don't recall that.

4 Q. Did you ever ask anyone what he --
5 what Mr. Bolton meant by that?

6 A. I don't recall that.

7 Q. What's Mr. Bolton referring to
8 when he says you seemed pleased with the Mod
9 recommendation?

10 A. I don't -- I don't know.
11 Something to do with a loan modification
12 recommendation of some type.

13 Q. Okay. Did this conversation
14 continue from here or is this all of it?

15 A. No idea.

16 Q. Okay. Other than this
17 conversation and when you were informed of the
18 one complaint, did you have any other
19 conversations with Mr. Bolton about
20 Mr. Gemrich's conduct or any complaints against
21 him?

22 A. Not that I can recall specifically.

23 Q. How about generally?

24 A. I don't recall.

25 Q. Do you recall in late 2018/early

1 2019 that a peer group analysis was being
2 performed under Mr. Gemrich's team?

3 A. I don't recall that.

4 Q. Do you recall a reduction in force
5 occurring in late 2018/early 2019 within one or
6 more of the divisions under your team?

7 A. Yes.

8 Q. Okay. What do you recall about
9 that?

10 A. We've had multiple reductions in
11 force, as mentioned previously, either through
12 duplication of function, through outsourcing of
13 work, and improvements in efficiency.

14 Q. Okay. And I'm asking about this
15 late 2018/early 2019 period. What do you
16 recall about the reduction in force?

17 A. Nothing specifically other than,
18 you know, over a period of two, three years, we
19 had a substantial reduction in workforce.

20 Q. Two to three years. What years
21 are you referring to?

22 A. Primarily '17, '18, '19.

23 Q. Okay. So this is all just -- I
24 mean, was it a continuation of the same
25 reducing head count throughout that period?

1 A. Yes, for those three reasons I
2 just stated.

3 Q. Okay. Do you recall a reduction
4 in force occurring on the quality control side?

5 A. Not specifically.

6 Q. Okay. And when you refer to a
7 reduction in force, that includes that same
8 peer group analysis that we've been talking
9 about?

10 A. Not necessarily. If the job was
11 being eliminated altogether, I don't believe
12 we'd get to a peer group analysis.

13 Q. Why not?

14 A. We could be outsourcing the work,
15 and there is no reason to do a peer group
16 analysis.

17 Q. Okay. Well, let's talk back to
18 the merger, the merger between consumer lending
19 and mortgage. You have two employees
20 performing the same job. Would you perform a
21 peer group analysis in that circumstance?

22 MS. GOETZ-ANDERSON: Objection.
23 Asked and answered several times now.

24 MR. SMITH: No, it hasn't been.

25 MS. GOETZ-ANDERSON: Objection.

1 David, you can answer if you're able to.

2 THE WITNESS: Yes, again, is my
3 understanding.

4 BY MR. SMITH:

5 Q. Okay. So in the circumstance
6 where a position is eliminated -- strike that.
7 I missed this at the beginning. Prior to U.S.
8 Bank, where did you work?

9 A. I was employed at Household
10 International for 24 years. I was employed at
11 Bear Stearns and Chase for four years and
12 Nationstar Mortgage for three and a half years.

13 Q. What was your position at
14 Nationstar?

15 A. Executive vice president.

16 Q. Alyson Roberts, are you familiar
17 with her?

18 A. Yes.

19 Q. Who's she?

20 A. A direct report of Bryan Bolton.

21 Q. Okay. What's her -- okay. What's
22 her position?

23 A. Today Alyson has responsibility
24 for QC and vendor management.

25 Q. QC is what John Gemrich previously

1 had, right?

2 A. Yes.

3 Q. Alyson worked at Nationstar with
4 you, right?

5 A. She was employed there at the same
6 time I was there, yes.

7 Q. Okay. Did you know each other at
8 that time?

9 A. No.

10 Q. Okay. When did she start at U.S.
11 Bank?

12 A. I don't recall.

13 Q. Okay. Were you involved in her
14 hiring decision?

15 A. I don't recall that.

16 Q. Did she use you as a referral?

17 A. No recollection of that.

18 Q. Were you ever made aware she has a
19 criminal record?

20 A. Yes, recently.

21 Q. How were you made aware?

22 A. Through my short call with Jamie.

23 Q. Okay. I don't want to know
24 anything you guys discussed, but outside of --
25 you weren't made aware other than that?

1 A. No.

2 Q. I'm not going to going to
3 introduce Exhibit 3.

4 (Thereupon, Plaintiffs' Exhibit 3, An
5 Important Message from David Little:
6 Organizational Changes, was marked for purposes of
7 identification.)

8 BY MR. SMITH:

9 Q. If you could let me know when
10 that's up.

11 A. Okay.

12 Q. Okay. This is a document produced
13 by your counsel. It's undated, but it appears
14 to be a message from you regarding
15 organizational changes. Do you recall seeing
16 this document before?

17 A. Only reviewed it last week, but yes.

18 Q. Had you seen it prior to last week?

19 A. Yeah, I would have seen it. It
20 went out under my name.

21 Q. Okay. Did you draft it?

22 A. I would not have drafted it. I
23 would have approved it.

24 Q. Okay. Who would have drafted it?

25 A. More than likely my communications

1 team.

2 Q. Who is your communications team?

3 A. Works under one of my direct
4 report, John Varol.

5 Q. John Varol is your communications
6 team or your communication team reports to him?

7 A. Reports to him.

8 Q. Okay. Who on his team that
9 reports to him drafted this, do you know?

10 A. No idea. And, again, I don't know
11 specifically whether they did it or somebody
12 else did it.

13 Q. Okay. So you approved it and you
14 reviewed it in full?

15 A. That would be my recollection, yes.

16 Q. Okay. Do you know when this went
17 out?

18 A. Not specifically, no.

19 Q. Do you know generally?

20 A. Well, it references the
21 integration of the two areas, so at that time.

22 Q. And what's that time?

23 A. Again, I think we're talking about
24 the late '17/'18 period.

25 Q. Okay. And who would this have

1 been distributed to?

2 A. All of the employees within
3 mortgage servicing as well as lending services.

4 Q. Okay. I'm showing you Exhibit 4
5 now.

6 (Thereupon, Plaintiffs' Exhibit 4,
7 Talking Points for leader in CBSS Servicing, was
8 marked for purposes of identification.)

9 THE WITNESS: Okay.

10 BY MR. SMITH:

11 Q. Have you seen this document
12 before?

13 A. Again, only in preparation of this.

14 Q. You've not seen this prior to
15 preparing for your deposition?

16 A. Not that I recall, no.

17 Q. Okay. Do you have any idea what
18 this is?

19 A. It looks like a talking points for
20 the leadership group, if -- to discuss with
21 their teams.

22 Q. Who comprises the leadership
23 group?

24 A. Typically that would be a manager,
25 you know, a grade 14 and above.

1 Q. That includes all of your direct
2 reports?

3 A. Yes.

4 Q. Okay. I'm introducing Exhibit 5.

5 (Thereupon, Plaintiffs' Exhibit 5,
6 CBSS Servicing Organization Chart, was marked for
7 purposes of identification.)

8 BY MR. SMITH:

9 Q. Let me know when that's up.

10 A. Okay.

11 Q. Have you seen this document before?

12 A. Likely I would have seen it, yes.

13 Q. When would you have seen it?

14 A. Typically, I would have reviewed
15 this every month.

16 Q. Okay. Did you create this
17 document?

18 A. No.

19 Q. Who created it?

20 A. No idea.

21 Q. How do you come to see it every
22 month?

23 A. We do a monthly leadership call
24 that this is part of that material.

25 Q. And this is titled CBSS Servicing

1 Organization Chart, and it's got you basically
2 at the top. Do you know what time period this
3 particular organizational chart applied?

4 A. Not specifically, no.

5 Q. How about generally?

6 A. You know, generally, I would
7 assume around the time of the integration.

8 Q. Okay. Under Mr. Bolton's team,
9 there's two open positions. Do you see that?

10 A. Yes.

11 Q. Okay. That's under risk and
12 controls and risk strategy. Do you know when
13 those positions were filled?

14 A. I do not.

15 Q. Were they eventually filled?

16 A. I do not know.

17 Q. Do they still exist?

18 A. Not that I'm aware of.

19 Q. When were they eliminated?

20 A. I don't recall.

21 Q. Do you know if efforts were made
22 to fill those positions?

23 A. I don't.

24 Q. Who was involved in those monthly
25 leadership meetings?

1 A. Everyone grade 14 and above. And
2 I don't recall -- and I don't recall if those
3 actually took place in the '17/'18 time period.

4 Q. Okay. Would you have seen this
5 outside the context of a monthly leadership
6 meeting, this particular document?

7 A. Don't recall.

8 Q. Okay. I understand you don't
9 recall the specific time period when this
10 applied, but does this appear to be an accurate
11 representation at some point of what your
12 organization looked like?

13 A. I have no reason to believe it
14 isn't.

15 Q. Okay. On the monthly leadership
16 meetings, you said everyone grade 14 and above.
17 Looking at this, is there anyone on this chart
18 that would not be a grade 14 or above?

19 A. Could be. I don't think so.

20 Q. Okay.

21 THE WITNESS: Can we take a short
22 break?

23 MR. SMITH: Yeah. Sure.

24 (Pause in proceedings.)

25 BY MR. SMITH:

1 Q. All right. I have uploaded
2 Exhibit 6.

3 (Thereupon, Plaintiffs' Exhibit 6,
4 email, was marked for purposes of identification.)
5 BY MR. SMITH:

6 Q. Mr. Little, if you can let me know
7 when you have that in front of you.

8 A. Okay.

9 Q. All right. Have you seen this
10 email before?

11 A. Not that I recall.

12 Q. Okay. I'm going to refer you to
13 the organizational announcement for servicing
14 control and everything below that. I know you
15 haven't seen this email, but have you seen the
16 message in this before as it went out?

17 A. I'm sorry. What was the question?

18 Q. Yeah. Where it states
19 organizational announcement, servicing control,
20 had you ever seen that message before, even in
21 another email?

22 A. I don't recall.

23 Q. Okay. Would you typically be
24 copied on any kind of announcement like this?

25 A. Yes.

1 Q. Okay. It indicates at the bottom,
2 as part of these changes, I'd like to
3 acknowledge five leaders will leave U.S. Bank,
4 and it references Rhonda Gombold, Matt Kobin,
5 Renea Paulick, Tom Strotman, and Mark Pannek.
6 Those are all employees. Do you know if those
7 are employees that were let go from the bank?

8 A. It infers that, yes.

9 Q. Who is Renea Paulick?

10 A. No idea.

11 Q. Who is Matt Kobin?

12 A. Matt I actually do know. Matt
13 worked for me at Bear Stearns and Chase.

14 Q. Were you aware he was being let go
15 from U.S. Bank?

16 A. Yeah. Yes.

17 Q. Okay. And why was he being let go?

18 A. I'm assuming, again, in the
19 reorganization his job was either eliminated or
20 we had duplication.

21 Q. What was his job at U.S. Bank?

22 A. I don't recall.

23 Q. How about Rhonda Gombold?

24 A. I don't know.

25 Q. You already said, I think, you

1 didn't know Tom Strotman and Mark Pannek at
2 that time, right?

3 A. Correct.

4 Q. Looking at those five employees,
5 does that refresh your recollection as to how
6 many employees Mr. Bolton informed you were
7 going to be let go?

8 A. No.

9 Q. Okay. Do you think it would have
10 been -- do you think it was more than five? Do
11 you have any reason to dispute that was more
12 than -- that it was five?

13 A. No. I mean, he's referencing five
14 leaders. He's not referencing any potential
15 line employees that might have been actioned as
16 well.

17 Q. Were line employees actioned as
18 well at this time in May of 2018?

19 A. I don't recall specifically, nor
20 do I recall if it was involving Bryan's group,
21 but, again, over that three-year period I
22 referenced, there were line employees.

23 Q. Okay. Do you know who Greg Hovis is?

24 A. I know of Greg, yes.

25 Q. What's his position at U.S. Bank?

1 A. I'm not sure what his title is. I
2 know he works under Bryan.

3 Q. Do you know when he started?

4 A. No.

5 Q. I just introduced Exhibit 7.

6 (Thereupon, Plaintiffs' Exhibit 7,
7 organizational chart, was marked for purposes of
8 identification.)

9 BY MR. SMITH:

10 Q. Let me know when it's up.

11 A. Okay.

12 Q. Have you ever seen this document
13 before?

14 A. Not that I recall.

15 Q. Okay. It indicates here Hovis,
16 change management, interim. Does that refresh
17 you at all as far as the position that Hovis --
18 Greg Hovis held?

19 A. No.

20 Q. Okay. And then it has risk
21 strategy as a new role. Is that one of the
22 same roles that we looked at as far as an open
23 position?

24 A. I believe it was, yes.

25 Q. Okay. What is that role? What do

1 they do?

2 A. I do not know. I don't know.

3 Q. Okay. All right. I'm introducing
4 Exhibit 8 now.

5 (Thereupon, Plaintiffs' Exhibit 8,
6 email chain, was marked for purposes of
7 identification.)

8 THE WITNESS: Okay.

9 BY MR. SMITH:

10 Q. Have you ever seen this document
11 before?

12 A. No, not that I recall.

13 Q. What about the spreadsheet that
14 starts towards the bottom of the first page,
15 ends on the second page? Is that something
16 that was ever shared with you?

17 A. Not that I recall, no.

18 Q. Do you know what the term synergy
19 means?

20 A. Not exactly in this context. I
21 can make an assumption, but no.

22 Q. All right. Well, what's your
23 understanding of it in this context?

24 A. Well, I would think it's either
25 duplication of a role or, you know, not needed.

1 Q. Okay. So when -- yeah, okay.
2 When we look at that spreadsheet, when it says
3 synergy, I mean, do you have any idea as far as
4 these individuals, is it referring to
5 duplication or they're not needed anymore?

6 A. Well, I can look at some of these
7 and, you know, Matt Robin, for example,
8 function moving to risk, his level not needed.
9 So that's the -- whatever we were doing moved
10 to a different area outside our organization.

11 Q. Is synergy a term typically used
12 at U.S. Bank?

13 A. No recollection if this is, you
14 know, used, how often it's used.

15 MR. SMITH: All right. If you just
16 give me five minutes, I think we can hopefully
17 wrap up after that. So we'll be back at 12:45,
18 and I may have a couple more for you but we should
19 be close to be done.

20 (Pause in proceedings.)

21 (Thereupon, Defendant's Exhibit 9,
22 John Gemrich Follow-Up Discussion, was marked for
23 purposes of identification.)

24 BY MR. SMITH:

25 Q. All right. Mr. Bolton (sic), I

1 just have a couple questions. I introduced
2 Exhibit 9, if you could pull that up.

3 Mr. Little. I'm sorry.

4 A. Okay.

5 Q. Have you ever seen this document
6 before?

7 A. I don't recall this, no.

8 Q. Okay. There's an indication here,
9 if you see it, that it states John shares
10 personal information about dating and sexual
11 encounters. Picked up a deaf girl and slept
12 with multiple employees on a trip. Do you
13 recall those allegations coming up at some
14 point prior to today?

15 A. I do not.

16 Q. Okay. Do you recall any
17 complaint -- I mean, looking at this, do you
18 recall any complaints about Mr. Gemrich
19 sleeping with employees?

20 A. I do not.

21 Q. Is that concerning to you?

22 A. Yes.

23 MR. SMITH: Okay. I have nothing
24 further for you.

25 MS. GOETZ-ANDERSON: Before we -- I

1 just have one or two questions for you, David,
2 before we're done here. I'll make it brief.

3 * * *

4 DIRECT EXAMINATION

5 BY MS. GOETZ-ANDERSON:

6 Q. All right. Earlier today, Josh
7 asked you some questions about your
8 understanding of the procedures of how an
9 investigation is done when an employee makes a
10 complaint. Do you recall those questions?

11 A. Yes.

12 Q. And I'm just sort of paraphrasing
13 here, but my understanding is that your
14 understanding is that HR and ER or the CIC
15 team, as it's sometimes called, are both
16 involved or may be involved in investigating a
17 complaint by an employee. Is that a fair
18 summary of your testimony?

19 MR. SMITH: Objection to form.

20 THE WITNESS: Yes. That's my
21 understanding, yes.

22 BY MS. GOETZ-ANDERSON:

23 Q. Okay. David, do you have an
24 understanding of how exactly the HR and ER
25 teams decide who in any particular case who's

1 going to do the investigation?

2 A. No.

3 MR. SMITH: Objection.

4 MS. GOETZ-ANDERSON: Okay. That's
5 all I have for you.

6 MR. SMITH: Stacey, we'd like to
7 order.

8 MS. GOETZ-ANDERSON: We'll take a
9 copy, e-tran, please.

10 (Thereupon, signature was not
11 waived.)

12 (Thereupon, the deposition was
13 concluded at 12:47 p.m.)

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1 STATE OF OHIO)

2 COUNTY OF MONTGOMERY) SS: CERTIFICATE

3 I, Stacey M. Mortsolf, a Notary Public
4 within and for the State of Ohio, duly
5 commissioned and qualified,

6 DO HEREBY CERTIFY that the
7 above-named DAVID LITTLE, was by me first duly
8 sworn to testify the truth, the whole truth and
9 nothing but the truth.

10 Said testimony was reduced to writing
11 by me stenographically in the presence of the
12 witness and thereafter reduced to typewriting.

13 I FURTHER CERTIFY that I am not a
14 relative or Attorney of either party, in any
15 manner interested in the event of this action, nor
16 am I, or the court reporting firm with which I am
17 affiliated, under a contract as defined in Civil
18 Rule 28(D).

19

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1 IN WITNESS WHEREOF, I have hereunto set my
2 hand and seal of office at Dayton, Ohio, on this
3 28th day of September, 2021.

4
5
6 
7

8 STACEY M. MORTSOLF, RPR, CRR
9 NOTARY PUBLIC, STATE OF OHIO
10 My commission expires 5-31-2025
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Veritext Legal Solutions
1100 Superior Ave
Suite 1820
Cleveland, Ohio 44114
Phone: 216-523-1313

September 30, 2021

To: Ms. Goetz-Anderson

Case Name: Pannek, Mark Et Al v. US Bank National Association

Veritext Reference Number: 4802985

Witness: David Little Deposition Date: 9/16/2021

Dear Sir/Madam:

Enclosed please find a deposition transcript. Please have the witness review the transcript and note any changes or corrections on the included errata sheet, indicating the page, line number, change, and the reason for the change. Have the witness' signature notarized and forward the completed page(s) back to us at the Production address shown above, or email to production-midwest@veritext.com.

If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.

Sincerely,
Production Department

NO NOTARY REQUIRED IN CA

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 4802985

CASE NAME: Pannek, Mark Et Al v. US Bank National Association

DATE OF DEPOSITION: 9/16/2021

WITNESS' NAME: David Little

In accordance with the Rules of Civil
Procedure, I have read the entire transcript of
my testimony or it has been read to me.

I have made no changes to the testimony
as transcribed by the court reporter.

Date David Little

Sworn to and subscribed before me, a
Notary Public in and for the State and County,
the referenced witness did personally appear
and acknowledge that:

They have read the transcript;

They signed the foregoing Sworn
Statement; and

Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal

this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 4802985

CASE NAME: Pannek, Mark Et Al v. US Bank National Association

DATE OF DEPOSITION: 9/16/2021

WITNESS' NAME: David Little

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

Date

David Little

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;

They have listed all of their corrections in the appended Errata Sheet;

They signed the foregoing Sworn Statement; and

Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

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ERRATA SHEET
VERITEXT LEGAL SOLUTIONS MIDWEST
ASSIGNMENT NO: 4802985

PAGE/LINE(S) / CHANGE /REASON

Date David Little
SUBSCRIBED AND SWORN TO BEFORE ME THIS _____
DAY OF _____, 20____ .

Notary Public

Commission Expiration Date

[& - anderson]

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Ohio Rules of Civil Procedure

Title V. Discovery

Rule 30

(e) Submission to Witness; Changes; Signing.

When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by the witness, unless examination and reading are waived by the witness and by the parties. Any changes in form or substance that the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill, cannot be found, or refuses to sign. The witness shall have thirty days from submission of the deposition to the witness to review and sign the deposition. If the deposition is taken within thirty days of a trial or hearing, the witness shall have seven days from submission of the deposition to the witness to review and sign the deposition. If the trial or hearing is scheduled to commence less than seven days before the deposition is submitted to the witness, the court may establish a deadline for the

witness to review and sign the deposition. If the deposition is not signed by the witness during the period prescribed in this division, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

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VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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